

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RUBIE’S COSTUME COMPANY, INC.,
a New York corporation,

Plaintiff,

v.

JOHN DOES 1-100, currently unknown
individuals and entities,

Defendants.

No.

COMPLAINT

I. INTRODUCTION

1. From humble roots as a single store in a working-class neighborhood of Queens, New York, the family owned and operated Rubie’s Costume Company, Inc. has become the world’s largest costume company. Among its many successful products, Rubie’s Costume Company sells a highly-recognizable and very popular full-body Inflatable T-Rex Costume. Unfortunately, Rubie’s Costume Company’s success has spawned imitators seeking to profit from Rubie’s Costume Company’s innovation and world-famous products. One imitator is the currently unknown manufacturer (“John Doe Manufacturer”) that manufactures and sells an imitation T-Rex costume that infringes Rubie’s Costume Company’s copyright in the 2-D artwork and 3-D design of the Inflatable



1 T-Rex Costume. John Doe Manufacturer distributes its infringing T-Rex costumes to
 2 numerous companies and individuals which resell the costumes in the United States through
 3 e-commerce channels. Rubie's Costume Company brings this lawsuit to stop John Doe
 4 Manufacturer's and its downstream resellers' infringement, and hold them accountable for
 5 their unlawful conduct.

6 **II. PARTIES**

7 2. Rubie's Costume Company, Inc. is a New York corporation with its
 8 principal place of business in New York. Rubie's Costume Company, along with its
 9 subsidiaries and affiliates, designs and manufactures costumes and accessories. Rubie's
 10 Costume Company distributes and sells its renowned costumes throughout the world,
 11 including in the United States and to customers that sell through Amazon.com.

12 3. The true identities of Defendants are not presently known to Rubie's
 13 Costume Company, and therefore have been named as "John Does." On information and
 14 belief, the John Doe Manufacturer and its downstream resellers (collectively "John Doe
 15 Defendants") are individuals and entities who sell infringing T-Rex costumes in the United
 16 States through the online seller accounts identified in this Complaint.

17 **III. JURISDICTION AND VENUE**

18 4. The Court has subject matter jurisdiction over this action pursuant to 28
 19 U.S.C. §§ 1331 and 1338(a) because Rubie's Costume Company's claim arises under the
 20 Copyright Act (17 U.S.C. §§ 101 et seq.).

21 5. The Court has personal jurisdiction over Defendants because they transacted
 22 business and committed tortious acts within and directed to this District. On information
 23 and belief, each of the Defendants contracted with a Washington-based company for the
 24 sale of the infringing products at issue in this case, and performed under that contract. The
 25 numerous sales of the infringing products at issue in this case arise directly from
 26 Defendants' business with that Washington-based company.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred in the Western District of Washington, and because Defendants are subject to personal jurisdiction in this judicial district.

7. Pursuant to Local Civil Rule 3(e)(1), intra-district assignment to the Seattle Division is proper because the claims arose in this Division where (a) the injuries giving rise to suit occurred, and (b) Defendants directed their unlawful conduct.

IV. FACTUAL ALLEGATIONS

A. Rubie's Costume Company

1. The World's Largest Costume Designer and Manufacturer—Family Owned and Operated

8. Founded in 1951 by Rubin and Tillie Beige, Rubie's Costume Company first opened as a candy store. The Beige family operated the store and lived behind it in a working-class neighborhood of Queens, New York. Among many things, the store sold a variety of holiday masks and other accessories. Seizing on the popularity of these items, in 1959, the Beige family moved a block away and opened up Rubie's Fun House to focus exclusively on selling holiday and novelty items.

9. In the early 1970s, one of the founders' sons, Marc Beige, took over the company. Marc quickly focused Rubie's Costume Company on making safe, high-quality, and iconic costumes for all occasions. Rubie's Costume Company's focus on delivering world-class costumes to its customers revolutionized the modern costume industry. Though Rubie's Costume Company is still very much a family owned and operated business headquartered in New York, the company now has offices around the world, employs over 3,000 people and has millions in annual sales.

10. Today, Rubie's Costume Company designs and manufactures costumes and accessories that people around the world wear and use to celebrate nearly every holiday and special occasion. In the U.S., Rubie's Costume Company produces costumes for

1 everything from Mardi Gras to Halloween, to Christmas to Easter, and everything in
2 between.

3 11. One of the keys to Rubie's Costume Company's success is its ability to
4 design and manufacture original costumes, taking the costume from a concept to a finished
5 product distributed to millions of people around the world. Rubie's Costume Company
6 spends significant resources to create the infrastructure necessary to create its famous
7 costumes. Among other things, Rubie's Costume Company and its affiliates employ
8 numerous full-time costume designers, and use a number of design professionals to convert
9 its original drawings to three-dimensional costumes.

10 12. Rubie's Costume Company also has the largest and most popular portfolio of
11 character licenses in the costume industry. Rubie's Costume Company devotes substantial
12 resources to maintaining and updating this portfolio to reflect rapidly changing pop-culture
13 and consumer demand. Rubie's Costume Company manufactures and sells costumes from
14 popular movies, such as Avengers: Infinity War, Aquaman and Star Wars. It also produces
15 costumes representing some of the most popular characters of all time such as Batman and
16 Spider-Man.

17 **2. Rubie's Costume Company's Fight Against Infringement**

18 13. Rubie's Costume Company's popularity and success has led to the copying
19 of its designs and infringement of its intellectual property by numerous companies and
20 individuals around the world, including Defendants, who seek to profit from Rubie's
21 Costume Company's ingenuity and success.

22 14. In addition to the irreparable and obvious harm caused to Rubie's Costume
23 Company by these bad actors, the sale of infringing and counterfeit costumes poses
24 significant risks to consumers because infringing items are often unsafe and of inferior
25 quality. These risks are especially problematic as many of the counterfeit costumes are
26 designed for and used by children.

1 15. The sale of infringing costumes—particularly on the internet—also harms
2 the numerous legitimate businesses that purchase genuine costumes directly from Rubie’s
3 Costume Company. The sale of inexpensive, infringing costumes creates an unfair market
4 for Rubie’s wholesale customers attempting to sell genuine products.

5 16. Rubie’s Costume Company takes this problem seriously, and it combats
6 infringers around the globe in order to protect its retail and wholesale customers, as well as
7 its own brand and intellectual property.

8 17. Among other enforcement techniques, Rubie’s Costume Company
9 cooperates with law enforcement in a variety of regions to seize counterfeit or unsafe
10 inventory. Rubie’s Costume Company also brings civil lawsuits, such as this one, against
11 infringers to stop their misuse of Rubie’s Costume Company’s intellectual property, and
12 their deceit of consumers.

13 **1. Rubie’s Costume Company’s Inflatable T-Rex Costume**

14 18. One of Rubie’s Costume Company’s most iconic products is an Inflatable T-
15 Rex Costume, a picture of which is below:



1 19. The Inflatable T-Rex Costume constitutes an original work of authorship and
2 copyrightable subject matter under the laws of the United States. The Inflatable T-Rex
3 Costume embodies original 2-D artwork, as well as an original 3-D design.

4 20. Rubie's Costume Company's Inflatable T-Rex Costume was first published
5 on July 31, 2015.

6 21. Rubie's Costume Company has registered its copyright in the Inflatable T-
7 Rex Costume with the United States Copyright Office, which issued Registration Number
8 VA 2-108-559. Attached as Exhibit A is a copy of the Certificate of Registration for the
9 Inflatable T-Rex Costume. The Certificate of Registration constitutes prima facie evidence
10 of the validity of the copyright and of the facts stated in the certificate pursuant to 17 U.S.C.
11 § 410(c).

12 22. Since first publishing the Inflatable T-Rex Costume, Rubie's Costume
13 Company has invested significant resources in advertising and marketing the Inflatable T-
14 Rex Costume, which is sold through a variety of distribution channels throughout the
15 United States (and the world), including online platforms and traditional brick and mortar
16 stores.

17 23. Rubie's Costume Company's efforts have been recognized by leading
18 industry organizations. At the 2018 Toy of the Year Awards (the toy industry's equivalent
19 of the Academy Awards), the Inflatable T-Rex Costume won the Innovative Toy of the
20 Year Award—and was the first costume to ever be nominated and the only costume to ever
21 win the award. As with an Oscar, this award demonstrates the costume's creativity,
22 execution, popularity and success in the market.

23 24. The Inflatable T-Rex Costume has also spawned a number of viral internet
24 videos, which has further increased the popularity of the costume.¹ For example, there is a

25 ¹ A recent news report by Vulture documents the history of Rubie's Costume's Inflatable T-Rex Costume and
26 the immense popularity of the costume. *See* History of a Meme: The T-Rex Costume, at
<https://youtu.be/ypwlGj-an2M>.

1 YouTube channel called “Trex Tuesdays” that features videos of people in Inflatable T-Rex
2 Costumes performing everyday tasks, and has nearly 15,000 followers. Some of the videos
3 from this site have received hundreds of thousands of views each.

4 25. Rubie’s Costume Company also markets the Inflatable T-Rex Costume using
5 the famous Jurassic World name, logos and imagery—all of which Rubie’s Costume
6 Company licenses from Universal Studios. The newest installment in the Jurassic World
7 series of films was released in June 2018, and Rubie’s Costume Company anticipates it will
8 create significant interest in the Inflatable T-Rex Costume and further increase the
9 popularity of the costume.

10 **B. Defendants’ Willful Infringement of Rubie’s Costume Company’s Inflatable T-**
11 **Rex Costume**



12 26. John Doe Manufacturer manufactures, distributes and sells an inflatable T-
13 Rex costume that copies original elements of Rubie’s Costume Company’s Inflatable T-Rex
14 Costume protected by copyright, and John Doe Manufacturer’s T-Rex costume is
15 substantially similar to Rubie’s Costume Company’s Inflatable T-Rex Costume.

16 27. Below is an image of Rubie’s Costume Company’s Inflatable T-Rex
17 Costume and Defendants’ infringing costume:

18 //

21 //

24 //

Rubie's Costume Company's Inflatable T-Rex Costume	John Doe Manufacturer's Infringing Inflatable T-Rex Costume
	

28. John Doe Manufacturer's T-Rex costume copies original graphical and sculptural features from Rubie's Costume Company's Inflatable T-Rex Costume. These features include, but are not limited to, the exaggerated shape of the body and head of a t-rex and its proportions, the way of depicting the dinosaur's eye and the darkened region surrounding the eye, similar patterns composed of clusters of blocks and grass-like slash marks on the body, and a similar webbed pattern on the dinosaur's torso.

29. On information and belief, Defendants copied Rubie's Costume Company's Inflatable T-Rex Costume in manufacturing their inflatable T-Rex costumes. Defendants had access to Rubie's Costume Company's Inflatable T-Rex Costume because (among other things) it has been publicly available since July 31, 2015 through numerous sales channels. On information and belief, John Doe Manufacturer began manufacturing and offering for sale its T-Rex costume after Rubie's Costume Company's Inflatable T-Rex Costume became publicly available.

30. On information and belief, one or more of the John Doe Defendants operates the seller account named "Luckysun" (A3D9R55W5Q8HOV) on Amazon.com. Through that Amazon seller account, the John Doe Defendants advertise and sell one or more of

1 John Doe Manufacturer's infringing versions of the T-Rex costume. On September 28,
2 2018 and October 3, 2018 Rubie's Costume Company test purchased two total T-Rex
3 costumes from the "Luckysun" Amazon seller account and has confirmed that the costumes
4 are each the infringing John Doe Manufacturer T-Rex costume described above.

5 31. On information and belief, one or more of the John Doe Defendants operates
6 the seller account named "HEYMA" (A2ZZZPMHYOI9NN) on Amazon.com. Through
7 that Amazon seller account, the John Doe Defendants advertise and sell one or more of
8 John Doe Manufacturer's infringing versions of the T-Rex costume. On September 28,
9 2018 and October 3, 2018 Rubie's Costume Company test purchased three total T-Rex
10 costumes from the "HEYMA" Amazon seller account and has confirmed that the costumes
11 are each the infringing John Doe Manufacturer T-Rex costume described above.

12 32. On information and belief, one or more of the John Doe Defendants operates
13 the seller account named "AOSKA" (A2G6UEBMPDG0CB) on Amazon.com. Through
14 that Amazon seller account, the John Doe Defendants advertise and sell one or more of
15 John Doe Manufacturer's infringing versions of the T-Rex costume. On September 28,
16 2018, Rubie's Costume Company test purchased a T-Rex costume from the "AOSKA"
17 Amazon seller account and has confirmed that it is the infringing John Doe Manufacturer
18 T-Rex costume described above.

19 33. On information and belief, one or more of the John Doe Defendants operates
20 the seller account named "GoPrime.online-shop" (A2NKKAP3SFL0N0) on Amazon.com.
21 Through that Amazon seller account, the John Doe Defendants advertise and sell one or
22 more of John Doe Manufacturer's infringing versions of the T-Rex costume. On September
23 28, 2018, Rubie's Costume Company test purchased a T-Rex costume from the
24 "GoPrime.online-shop" Amazon seller account and has confirmed that it is the infringing
25 John Doe Manufacturer T-Rex costume described above.
26

1 34. On information and belief, one or more of the John Doe Defendants operates
2 the seller account named “GABOSS STORE” (A2OEB468PWWY9F) on Amazon.com.
3 Through that Amazon seller account, the John Doe Defendants advertise and sell one or
4 more of John Doe Manufacturer’s infringing versions of the T-Rex costume. On October 3,
5 2018, Rubie’s Costume Company test purchased a T-Rex costume from the “GABOSS
6 STORE” Amazon seller account and has confirmed that it is the infringing John Doe
7 Manufacturer T-Rex costume described above.

8 35. On information and belief, one or more of the John Doe Defendants operates
9 the seller account named “XONOR-US” (A1IBZ2YQ3N7KD1) on Amazon.com. Through
10 that Amazon seller account, the John Doe Defendants advertise and sell one or more of
11 John Doe Manufacturer’s infringing versions of the T-Rex costume. On October 3, 2018,
12 Rubie’s Costume Company test purchased a T-Rex costume from the “XONOR-US”
13 Amazon seller account and has confirmed that it is the infringing John Doe Manufacturer
14 T-Rex costume described above.

15 36. On information and belief, one or more of the John Doe Defendants operates
16 the seller account named “BOBOO” (A3JOORNG3JX4WR) on Amazon.com. Through
17 that Amazon seller account, the John Doe Defendants advertise and sell one or more of
18 John Doe Manufacturer’s infringing versions of the T-Rex costume. On October 9, 2018,
19 Rubie’s Costume Company test purchased a T-Rex costume from the “BOBOO” Amazon
20 seller account and has confirmed that it is the infringing John Doe Manufacturer T-Rex
21 costume described above.

22 37. On information and belief, one or more of the John Doe Defendants operates
23 the seller account named “Yuexi International Trade” (A1GGTH4P6V56SD) on
24 Amazon.com. Through that Amazon seller account, the John Doe Defendants advertise and
25 sell one or more of John Doe Manufacturer’s infringing versions of the T-Rex costume. On
26 October 9, 2018, Rubie’s Costume Company test purchased a T-Rex costume from the

1 “Yuexi International Trade” Amazon seller account and has confirmed that it is the
2 infringing John Doe Manufacturer T-Rex costume described above.

3 **V. CAUSE OF ACTION**

4 **Copyright Infringement (17 U.S.C. § 501)**

5 38. Rubie’s Costume Company incorporates by reference the Factual
6 Allegations contained in Sections I–IV as though set forth herein.

7 39. The Inflatable T-Rex Costume constitutes an original work of authorship and
8 copyrightable subject matter under the laws of the United States.

9 40. Rubie’s Costume Company is the sole owner of the copyright in the
10 Inflatable T-Rex Costume, as demonstrated by the attached Certificate of Registration.

11 41. On information and belief, Defendants copied, created derivative works of,
12 distributed copies to the public, and/or displayed publicly the Inflatable T-Rex Costume,
13 including the copyrighted original artwork and design of that product, without permission,
14 license, or authorization of Rubie’s Costume Company, thereby directly infringing Rubie’s
15 Costume Company’s exclusive rights under 17 U.S.C. § 106.

16 42. The foregoing acts of Defendants constitute infringement of Rubie’s
17 Costume Company’s exclusive rights, in violation of 17 U.S.C. § 501(a).

18 43. Defendants’ actions were and are intentional, willful, wanton, and performed
19 in disregard of Rubie’s Costume Company’s rights.

20 44. Each of the Defendants is directly liable for each of their respective acts of
21 infringement because they directly participated in the advertising, marketing, distribution
22 and sale of the infringing products.

23 45. John Doe Manufacturer is jointly and severally liable for all acts of
24 infringement by each of the sellers described in this Complaint because John Doe
25 Manufacturer formed part of the same product supply chain with each seller.
26

46. Rubie's Costume Company has been and will continue to be damaged, and Defendants have been unjustly enriched, by Defendants' unlawful infringement of Rubie's Costume Company's copyright in an amount to be proven at trial. Alternatively, Rubie's Costume Company is entitled to statutory damages under 17 U.S.C. § 504(c) against one or more of the seller-Defendants alleged in this Complaint.

47. Rubie's Costume Company is entitled to injunctive relief pursuant to 17 U.S.C. § 502. Rubie's Costume Company has no adequate remedy at law for Defendants' wrongful conduct because, among other things, (a) Rubie's Costume Company's copyright is unique and valuable property which has no readily determinable market value, (b) Defendants' continued infringement harms Rubie's Costume Company such that Rubie's Costume Company could not be made whole by a monetary award alone, and (c) Defendants' wrongful conduct, and the resulting damage to Rubie's Costume Company, is continuing.

48. Rubie's Costume Company is also entitled to recover its attorneys' fees and costs of suit pursuant to 17 U.S.C. § 505 from one or more of the seller-Defendants alleged in this Complaint.

VI. PRAYER FOR RELIEF

Wherefore, Rubie's Costume Company respectfully prays for the following relief:

A. That the Court enter judgment in favor of Rubie's Costume Company on all claims;

B. That the Court restrain and enjoin Defendants, their directors, principals, officers, agents, representatives, employees, attorneys, successors and assigns, and all others in active concert or participation with it, from directly or indirectly infringing Rubie's Costume Company's copyright in the Inflatable T-Rex Costume;

1 C. That the Court enter an order requiring Defendants to provide Rubie's
 2 Costume Company a full and complete accounting of all amounts due and owing to Rubie's
 3 Costume Company as a result of Defendants' unlawful activities;

4 D. An order under 17 U.S.C. § 503(b) directing the impoundment or destruction
 5 of all copies made or used in violation of the exclusive rights of Rubie's Costume
 6 Company, and all plates, molds, matrices, masters, tapes, film negatives, or other articles by
 7 means of which such copies may be reproduced. Further, Rubie's Costume Company seeks
 8 an order impounding records documenting the manufacture, sale, or receipt of things
 9 involved in any such violation;

10 E. That Defendants be required to pay the actual damages suffered by Rubie's
 11 Costume Company as a result of Defendants' infringement and any profits of Defendants
 12 that are attributable to the infringement and are not taken into account in computing the
 13 actual damages or, alternatively, statutory damages pursuant to 17 U.S.C. § 504(c);

14 F. That Defendants be required to pay to Rubie's Costume Company both the
 15 costs of this action and the reasonable attorneys' fees incurred by Rubie's Costume
 16 Company in prosecuting this action; and

17 G. That the Court grant Rubie's Costume Company such other, further, and
 18 additional relief as the Court deems just and equitable.

19 DATED this 18th day of October, 2018.

20 **YARMUTH WILSDON PLLC**

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*Attorneys for Plaintiff Rubie's
 Costume Company, Inc.*

EXHIBIT A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Karen Leigh Clayett

Acting United States Register of Copyrights and Director

Registration Number

VA 2-108-559

Effective Date of Registration:

June 27, 2018

Title

Title of Work: T-REX COSTUME

Completion/Publication

Year of Completion: 2015
Date of 1st Publication: July 31, 2015
Nation of 1st Publication: United States

Author

• **Author:** Imagination Design Studios, Limited
Author Created: 2-D artwork, 3-D design
Work made for hire: Yes
Citizen of: United States

Copyright Claimant

Copyright Claimant: Rubie's Costume Company, Inc.
 601 Cantiague Rock Road, Westbury, NY, 11590, United States
Transfer statement: By written agreement

Rights and Permissions

Organization Name: Rubie's Costume Company, Inc.
Name: Aleem Aziz
Email: aaziz@rubies.com
Telephone: (516)333-3473
Alt. Telephone: (206)757-8097
Address: 601 Cantiague Rock Road
 Westbury, NY 11590 United States

Certification

Name: Cindy L. Caditz
Date: June 27, 2018
Applicant's Tracking Number: 111264-2

Copyright Office notes: Basis for Registration: Graphic and sculptural features identified separately from and capable of existing independently of the utilitarian aspects of a useful article.